

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

REVEREND BECK,
Ph.D., # 154970,

Civil No. 05-2114 (RHK/FLN)

Petitioner,

v.

**REPORT AND
RECOMMENDATION**

ROBERT FENEIS
(as the current Warden of Minnesota
Correctional Facility - Rush City),

Respondent.

This matter is before the undersigned United States Magistrate Judge on Petitioner's self-styled application for a writ of habeas corpus. (Docket No. 1.) The case has been referred to this Court for report and recommendation pursuant to 28 U.S.C. § 636 and Local Rule 72.1.

Petitioner, a state prison inmate, is seeking a writ of habeas corpus that would direct his custodian, Respondent Warden Robert Feneis, to bring Petitioner before this Court for an evidentiary hearing in a related case that is currently pending in this District – Beck v. Skon, Civil No. 99-826 (RHK/FLN). However, there is no evidentiary hearing currently scheduled in that related case, (or in any other case in which Plaintiff is a party), so there obviously is no reason to compel Respondent to bring Petitioner before the Court. It will therefore be recommended that Petitioner's present habeas corpus petition be summarily denied, and that this action be dismissed.¹

¹ If Petitioner seeks an evidentiary hearing in Beck v. Skon, Civil No. 99-826 (RHK/FLN), he will have to make arrangements with his attorney to file a motion, in that case, requesting such a hearing. Petitioner's attorney can further request (by motion) an order compelling Petitioner's attendance at such hearing. (Needless to say, the Court

Petitioner did not pay the \$5.00 filing fee for this action, but instead applied for leave to proceed in forma pauperis, ("IFP"). (Docket No. 2.) Because Petitioner has failed to state an actionable habeas corpus claim, his IFP application will be denied. See 28 U.S.C. § 1915(e)(2)(B)(ii); see also, Kruger v. Erickson, 77 F.3d 1071, 1074, n. 3 (8th Cir. 1996) (per curiam) (IFP application should be denied where habeas petition fails to state an actionable claim).

RECOMMENDATION

Based on the foregoing, and all the files, records and proceedings herein,

IT IS HEREBY RECOMMENDED that:

- (1) Petitioner's application for leave to proceed in forma pauperis, (Docket No. 2), be DENIED;
- (2) Petitioner's application for a writ of habeas corpus, (Docket No. 1), be DENIED; and
- (3) This action be summarily DISMISSED.

Dated: September 23, 2005

s/ Franklin L. Noel
 FRANKLIN L. NOEL
 United States Magistrate Judge

Pursuant to the Local Rules, any party may object to this Report and Recommendation by filing with the Clerk of Court and serving on all parties, on or before **October 13, 2005**, written objections which specifically identify the portions of the proposed findings or recommendations to which objection is being made, and a brief in support thereof. A party may respond to the objecting party's brief within ten days after service thereof. All briefs filed under the rules shall be limited to 3500 words. A judge shall make a de novo determination of those portions to which objection is made. This Report and Recommendation does not constitute an order or judgment of the District Court, and it is, therefore, not appealable to the Circuit Court of Appeals.

cannot presently predict how any such requests might be resolved.)